

**Minneapolis Planning Department**

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**MEMORANDUM**

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DATE: December 4, 2003

TO: Council Member Gary Schiff, Chair, Zoning and Planning Committee  
Zoning and Planning Committee members

FROM: Jim Voll - City Planning Department

SUBJECT: Appeal of the City Planning Commission's decision for property located at  
120 ½ West Lake Street (Kulan Café House) – BZZ-1392

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Harold Cottle has filed an appeal of the City Planning Commission's approval of a parking variance of 21 spaces to zero spaces for the Kulan Café House located at 120 ½ West Lake Street. The Planning Commission approved the variance on November 3, 2003 and the appeal was filed on November 13, 2003. The Planning Commission voted 7-0 to approve the variance.

**Minneapolis Planning Department**

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MEMORANDUM

DATE: November 4, 2003

TO: Blake Graham, CPED - Planning Division  
Phil Schliesman, Licenses  
Clara Schmit-Gonzalez, Licenses

FROM: Neil Anderson, Supervisor, CPED - Planning Division, Development Services

SUBJECT: Planning Commission decisions of November 3, 2003

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The following actions were taken by the Planning Commission on November 3, 2003. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

**9. Kulan Café House (BZZ-1392, Ward 6)**

**116-130 (tenant space is 120 ½) West Lake Street** (Jim Voll)

**A. Site Plan Amendment**

Application by Dayax Ahmed and Mohammad Noor for a site plan amendment to allow the picket fence to remain for property located at 116-130 West Lake Street.

**Motion:** The City Planning Commission adopted the findings and **approved** the site plan amendment to allow the picket fence to remain for property located at 116-130 West Lake Street, subject to the replacement of all dead landscaping on the site in accordance with the approved site plan.

**B. Variance**

Application by Dayax Ahmed and Mohammad Noor for a variance to reduce the minimum required parking from 21 spaces to zero spaces for property located at 120 ½ West Lake Street.

**Motion:** Notwithstanding staff recommendation, the City Planning Commission **approved** the variance application to reduce the minimum required parking from 21 spaces to zero for property located at 120½ West Lake Street based on the

findings that some businesses in the center close earlier allowing the applicant to use those spaces, and that there is a dense population in walking distance of this use.

## **CPED Planning Division Report**

### **Site Plan Review Amendment & Variance (BZZ-1392)**

**Date:** November 3, 2003

**Date Application Deemed Complete:** October 7, 2003

**End of 60 Day Decision Period:** December 6, 2003

**Applicant:** Dayax Ahmed and Mohammad Noor dba Kulan Café House

**Address of Property:** 116-130 (tenant space is 120½) West Lake Street.

**Contact Person and Phone:** Mohammad Noor 612-871-1900

**Planning Staff and Phone:** Jim Voll 612-673-3887

**Ward:** 6      **Neighborhood Organization:** Whittier Alliance

**Existing Zoning:** C2 Neighborhood Corridor Commercial District.

**Proposed Use:** Coffee shop with billiards.

**Project Name:** Kulan Café House

**Proposed Variance:** Variance to reduce the required number of off-street parking spaces from 21 to 12 for the existing restaurant.

**Appropriate Section(s) of the Zoning Code:** Chapter 525, Article XI, Section 525.520 authorized variances. Specifically variance number 7 “to reduce the applicable off-street parking requirements up to one hundred (100) percent, provided the proposed use or building serves pedestrian or transit-oriented trade or occupancy, or is located near an off-street parking facility that is available to the customers, occupants, employees and guests of the use.” Chapter 530 Site Plan Review .

**Previous Actions and Background:** The building at 116-130 West Lake Street is a multi-tenant structure. There are seven tenant spaces in the building. Most of the spaces are retail/office or are vacant and El Mexicano Restaurant fills one space. When El Mexicano moved into the building in 2002 it triggered a site plan review and parking variance (BZZ-493). There is an approved site plan for the site, so although Kulan Café is subject to site plan review, they will not have to complete a new site plan. They will have to comply with the completed site plan.

The building was required to have 49 spaces under the previous review (the staff report stated 51, but this was due to liquor code requirements that no longer apply). There are 19 spaces in the parking lot in front of the building. El Mexicano received a variance from 21 spaces to 12 leaving seven spaces for the other tenants. Not including the restaurant space, the building was required to have 28 spaces (7 spaces @ 4 per space = 28). Since the building was constructed in 1978, there are no grandfathered spaces. It was anticipated that future uses would need to apply for variances to meet their parking requirement.

Kulan Café House is proposing to move into the tenant space at 120½ West Lake Street. They are required to have 21 spaces. Since there are none available in the lot a variance is necessary to reduce the parking to zero. This is a 100 percent variance. Any variance beyond 20 percent requires that the proposed use or building serve pedestrian-oriented trade or occupancy, or is located near an off-street parking facility that is available to customers, occupants, employees and guests of the use.

As noted above this site obtained site plan approval in 2002. Planning and Public Works staff approved the final site plan in May of 2002 (PW# 7125). The Inspections Department sent a letter to the applicant stating that the site meets the intent of the Planning Commission approval, but that there were deficiencies. A recent review of the site by Planning Staff noted the following items that are not in compliance with the approved site plan:

- The parking lot is not striped as shown on the plan.
- Bicycle parking is not provided.
- The majority of the landscaping is dead.
- A white picket fence was installed rather than the required wrought iron type fence.
- Some of the dumpsters at the rear of the site are not enclosed and there is a lot of trash piled up on the site.

These items are not the fault of the applicant, but the applicant will be required, along with the owner and other tenants, to bring the site into compliance. The applicant has agreed to improve the landscaping, but has been unable to get the owner to change the fence. They are requesting that the site plan be amended to allow a white picket fence rather than a wrought iron type fence.

#### **SITE PLAN AMENDMENT ( to allow different fencing than originally approved by the CPC)**

**Alternative Compliance. The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:**

- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**
- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**

- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

Under the previous site plan review (BZZ-493) the Planning Commission granted alternative compliance from the 20 percent landscaping requirement and the required number of trees and shrubs provided that wrought iron-style fencing is installed between the parking lot and the public sidewalks. A white picket fence was installed instead. Although it is not the preferred type of fence it is in good shape, and it protects the landscaped areas. Staff recommends that the Planning Commission allow this fence as an alternative to the original requirement of a wrought iron type fence.

### **VARIANCE (to reduce the required parking)**

#### **Findings Required by the Minneapolis Zoning Code for the Proposed Variance:**

1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

The use of one of the tenant spaces for a coffee shop is a reasonable use of the building. Because the size of the coffee shop would need to be scaled back significantly in order to comply with the off-street parking requirement, the applicant claims that undue hardship would result should the variance be denied. Since, coffee shops tend not to be destination points and to draw people from the local area, the city often grants them parking variances. However, the building is already deficient in meeting its parking requirements and an existing restaurant has received a parking variance. While it may be reasonable to grant variances for these uses individually, it may pose a problem cumulatively.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

The applicant proposes to add a more intensive use to a building that is already short on parking and has received a variance in the past. This may be a self-imposed hardship.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

The intent of the ordinance is to provide parking that matches the demand of the uses in the building. The city often grants parking variances for coffee shops as they tend to draw people from the surrounding area. The site is in a higher density area, is on a commercial corridor, and a heavily traveled transit route, so there are factors that warrant granting a variance. However, the building is already deficient in meeting its parking requirements and an existing restaurant has received a parking variance. While it may be reasonable to grant variances for these uses individually, it may pose a problem cumulatively.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Given the site's location on Lake Street, a major commercial corridor, pedestrian- and transit-oriented trade should constitute a significant portion of the establishment's business. However, the building is already short on parking by 30 spaces. A variance request for individual tenant spaces may make sense when considered on their own, but as more of the spaces in the building are intensified the potential for parking congestion may increase.

## **Recommendation of the CPED Planning Division:**

### **SITE PLAN AMENDMENT**

The CPED Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan amendment to allow the picket fence to remain for property located at 116-130 West Lake Street, subject to the replacement of all dead landscaping on the site in accordance with the approved site plan.

### **VARIANCE**

The CPED Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance application to reduce the minimum required parking from 21 spaces to zero for property located at 120½ West Lake Street.

**Excerpt from the  
Monday, November 3, 2003  
CITY PLANNING COMMISSION  
MINUTES  
317 City Hall  
Minneapolis, MN 55415  
4:30 p.m.**

**9. Kulan Café House (BZZ-1392, Ward 6)**

**116-130 (tenant space is 120 ½) West Lake Street** (Jim Voll)

**A. Site Plan Amendment**

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**Motion:** The City Planning Commission adopted the findings and **approved** the site plan amendment to allow the picket fence to remain for property located at 116-130 West Lake Street, subject to the replacement of all dead landscaping on the site in accordance with the approved site plan.

**B. Variance**

Application by Dayax Ahmed and Mohammad Noor for a variance to reduce the minimum required parking from 21 spaces to zero spaces for property located at 120 ½ West Lake Street.

**Motion:** Notwithstanding staff recommendation, the City Planning Commission **approved** the variance application to reduce the minimum required parking from 21 spaces to zero for property located at 120½ West Lake Street based on the findings that some businesses in the center close earlier allowing the applicant to use those spaces, and that there is a dense population in walking distance of this use.

Staff Jim Voll: This site is at the corner of Lake Street and Pillsbury and it went through site plan review in 2002 for one tenant in the building call El Mexicano Restaurant, and at that point, they had the site plan approved and they also got a parking variance from 49 spaces to the 19 that are in the lot. This is the site plan as approved. You can see they are basically the same. The applicant is willing to change this plan to match the approved plan. At this point, in the tenant's space on the second floor of this building (120 ½) they would like to put a coffee shop and a couple of pool tables, but it will not be a pool hall. It falls under the licensing requirements that would trigger that, so it's just a coffee shop. The required parking for that use is 21 spaces (the public area is divided by 15 times 30 percent, that gives us the parking for a restaurant/coffee shop). When the Planning Commission approved that to reduce the amount of landscaping from 20 percent, the Planning Commission recommended a wrought iron fence be installed and the applicant for El Mexicano restaurant actually installed a vinyl, white, picket fence. Now these are not the applicants that are here for the other tenant space, but they are requesting that rather than being required to replace that fence, that the fence remain, so staff recommending allowing that fence to remain—it is in good shape, it's not as attractive as a wrought iron fence, but we can live with it. If the Planning Commission would rather it be a wrought iron fence, that would be a requirement we would have to figure out who we would attach it to—whether it would be the new tenant or the original tenant. Then as far as the parking variance, the El Mexicano restaurant had a fairly large parking variance, so the whole building is about 30 short, so before this use even goes in it is about 30 spaces short and their use would then be another 20. To grant a 100 percent variance, as you know, they have to show a pedestrian oriented trade, and they argue ( and I would agree) that they are on a major bus route on Lake Street, so they have a lot of things that we would ordinarily consider granting a pedestrian-oriented variance. They are also a coffee shop, which we normally grant the variance for. The reason staff recommended a denial is that we were concerned that this building has several tenant spaces, and when you look at any one individually and say it's ok to grant that variance, at what point do there get to be too many variances? There are arguments either way, but staff erred on the side of caution, but that doesn't mean that there aren't factors you could consider in granting that



variance, such that they are on Lake Street, and that they believe there are people in the neighborhood that will walk to that use.

Commissioner Schiff: Mr. Voll, the applicant notes about the adjacent uses and the hours of operating and says he anticipates that competition for these spaces will be down when the other adjacent businesses are closed. How does that fit into your analysis?

Staff Voll: I didn't put a lot of analysis into it, because I did not receive an analysis from the applicant of what businesses are open when and I didn't have time to do that research myself, so if that is indeed the case that is something we can consider.

Commissioner Schiff: moved approval of the site plan and variance (items A and B) noting the applicant's letter to the Commission regarding other uses noted such as the insurance office which closes at 5:00 PM, the grocery shop which closes at 8:00 PM. There is also a letter of support from Whittier Alliance for the parking variance (Krause seconded).

Commissioner Young: I am just wondering if these totals are representative of the area and if there is anything we can do about this debris and junk around the trash and parking lot?

Staff Voll: We could do that, put a condition so that they would be responsible for cleaning up the litter. I felt it was a little unfair for these guys, because this has not been put on the other tenants, and it certainly is the responsibility of the landlord. The site is in pretty poor shape, and how much are we going to put on them if it's not their debris, but I think that is a fair condition.

President Martin: Can we get the Inspections Department to go out there?

Staff Voll: We can get Inspections to go out there, because there are a lot of violations on the site and I think all of the tenants are subject to site plan review, so I think there is plenty of responsibility.

Commissioner Schiff: An additional question, do we require a formal sign-off for a certificate of occupancy, is that correct?

Staff Voll: We would have to sign off on their plan, yes.

Commissioner Schiff: Are there any conditions in violation that we don't sign off for?

Staff Voll: A lot of times we won't sign off until everything is in compliance on the plan, but not necessarily at the site. After that it is a matter of enforcement.

Commissioner Young: Considering the circumstances of the landlord, I don't wish to add a condition.

Neil Anderson: The findings include the businesses closing early and being able to use those same spaces.

The motion carried 7-0.